

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,
ex rel. **DONALD R. GALMINES, et al.,**
Plaintiffs,

v.

NOVARTIS PHARMACEUTICALS
CORPORATION,
Defendant.

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CIVIL ACTION

NO. 06-3213

ORDER

AND NOW, this 13th day of June, 2013, having reviewed the briefing submitted in this matter, as well as the contentions of the parties set forth at oral argument, it is hereby ORDERED that the Defendant's Second Motion to Dismiss (Docket No. 62) is GRANTED IN PART and DENIED IN PART. The Relator may bring suit under the False Claims Act (FCA) based on his off-label marketing allegations, and also may bring claims against Novartis under the laws of Hawaii, Illinois, Indiana, Michigan, Tennessee, and Virginia. However, the Relator cannot base his FCA claim on his kickback allegations, and his claims under 31 U.S.C. § 3729(a)(3) and the laws of California, the District of Columbia, Louisiana, Massachusetts, and Nevada, as well as any claims accruing before the passage of the false claims acts of Indiana and Virginia, are dismissed with prejudice.

It is FURTHER ORDERED that the Relator shall file a second amended complaint that comports with this Order by no later than June 21, 2013. The Defendant shall answer this complaint by July 5, 2013.

It is FURTHER ORDERED that an **INITIAL PRETRIAL CONFERENCE** in this matter will be held on July 15, 2013 at 2:00 p.m. with the Honorable Gene E.K. Pratter in the

United States Courthouse, 601 Market Street, Philadelphia, PA 19106 in Chambers, Room 10613.

Attached is the Court's Notice concerning Scheduling and Discovery Policy and a Conference Information Report which you are required to complete and forward to the Court **at least three business days prior** to the day of the conference. You are also required to comply with the provisions of F.R.C.P. 26(f) regarding a conference of the parties and submission of a report outlining a proposed case management plan. For example, if the parties agree to exceed the standard number of interrogatories or depositions as provided in the Federal Rules of Civil Procedure they are to stipulate to such a change in their Rule 26(f) report, which shall be provided to the Court **at least three business days prior** to the day of the conference. *Neither Report should be docketed.*

If trial counsel in this case is on trial in a court of record at the scheduled time of the conference, another attorney in trial attorney's office, who should be familiar with the case, is required to appear at the conference. Do not send unknowledgeable substitutes. The conference will be continued to another date only in exceptional circumstances. Requests for phone conferences will not be routinely granted.

Counsel are advised to review and follow Judge Pratter's General Pretrial and Trial Procedures which are posted on <http://www.paed.uscourts.gov>. Counsel may call Chambers at the number listed below to request a hard copy of the Procedures Memorandum.

In the event counsel sends any fax to Chambers after 5:00 p.m. on weekdays or any time on the weekends, counsel must also leave a voice mail message on the Court's direct telephone number (267-299-7350).

Counsel are also advised that the Court expects all counsel to be registered on the ECF system of this District Court. All official filings submitted to the Clerk of the Court must be filed directly by the filing attorney on to ECF. The Court's orders, opinions and other docketed materials will be filed on to ECF and notice thereof will be communicated to counsel either by ECF or ordinary first-class mail. Requests to be excused from ECF registration must be made in writing directly to Judge Pratter.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
United States District Judge